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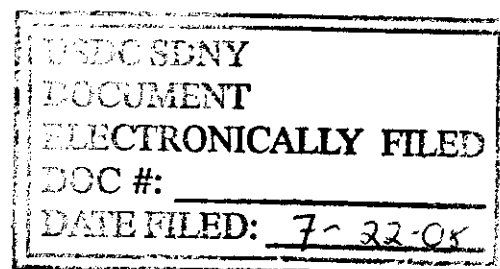
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July 14, 2008

VIA FACSIMILE

Hon. Henry Pitman
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street - Rm. 750
New York, NY 10007-1312



Re: Harris v. Simon & Schuster, Inc. and The McGraw-Hill
Companies, Inc. - 08 CV 3477 (RWS)

Dear Judge Pitman:

We write as counsel for defendants in the above-referenced action, in connection with an upcoming mediation scheduled for July 23, 2008. We have reviewed the Court's rules and write to request that, under the circumstances of this case, the insurance carrier technically involved, need not be present at the mediation.

This is a claim for copyright infringement based on the license by defendant Simon & Schuster, Inc. to defendant McGraw Hill Companies, Inc. of an excerpt from a work authored by the plaintiff Steven Harris. In sum, Simon & Schuster's position is that it had the right to issue that license under a Publishing Agreement with Harris; Harris' position is that the Agreement had either been terminated or did not include the rights licensed in the grant of rights.

The carrier in this case, Lexington Insurance Company, will not need to be consulted in order to resolve this matter; the decision as to whether to settle and on what terms will be solely within the discretion of defendant Simon & Schuster (and, to a limited extent, McGraw-Hill), given the extremely high self-insured retention in the policy.

We have notified the carrier of the upcoming mediation and he has asked whether, under the circumstances, the court would excuse his presence. We believe that, given the attended



circumstances, attendance by "a knowledgeable representative of the carrier" pursuant to Paragraph 6 of your rules, is not required here. We write to confirm that that is the case and look forward to attempting to resolve this matter with your assistance at the upcoming mediation.

Respectfully submitted,

Marcia B. Paul

MBP/lp

cc: George J. Wood, AIC
Lexington Insurance Company
Manny Pokitilow, Esq.
Jennifer K. Weidman, Esq.
Pierre Davis, Esq.

APPLICATION GRANTED

SO ORDERED

**HENRY PITMAN
UNITED STATES MAGISTRATE JUDGE**

7-18-08